

Chapter 2000 Duty of Disclosure; Rejecting and Striking of Applications

2001 Duty of Disclosure, Candor and Good Faith

- 2001.01 Who Has Duty To Disclose
- 2001.02 Extent of Duty To Disclose
- 2001.03 To Whom Duty of Disclosure is Owed
- 2001.04 Information Under 37 CFR 1.56(a)
- 2001.05 Materiality Under 37 CFR 1.56(a)
- 2001.06 Sources of Information
- 2001.06(a) Prior Art Cited in Related Foreign Applications
- 2001.06(b) Information Relating to or From Copending United States Patent Applications
- 2001.06(c) Information From Related Litigation
- 2001.06(d) Information Relating to Claims Copied from a Patent

2002 Disclosure—By Whom and How Made

- 2002.01 By Whom Made
 - 2002.02 Must be in Writing
 - 2002.03 Information Disclosure Statement
 - 2002.03(a) Updating of Information Disclosure Statement
 - 2002.04 Foreign Patents and Publications
- ## 2003 Disclosure—When Made
- 2003.01 Disclosure After Patent is Granted
- ## 2004 Aids to Compliance With Duty of Disclosure
- ## 2005 Alterations or Partly Filling in Applications After Execution
- ## 2006 Applications Signed or Sworn to in Blank or Without Review
- 2006.01 International Applications Filed Under the Patent Cooperation Treaty

2010 Fraud; Inequitable Conduct Equivalent to Fraud

- 2010.01 The Elements of "Technical" or "Affirmative" Fraud
 - 2010.02 Inequitable Conduct; Unclean Hands
- ## 2011 Exemplary Grounds Upon Which Findings of Fraud, Lack of Candor and Good Faith, and/or Violation of Duty of Disclosure Have Been Made

2012 Reissue Applications Involving Issues of Fraud, * * * Inequitable Conduct and/or Violation of Duty of Disclosure

- 2012.01 Collateral Estoppel
- ## 2013 Protests Involving Issues of Fraud, * * * Inequitable Conduct and/or Violation of Duty of Disclosure
- ## 2014 Duty of Disclosure in Reexamination Proceedings
- ## 2015 Petitions To Strike Under 37 CFR 1.56(c)
- 2016 Fraud, Inequitable Conduct or Violation of Duty of Disclosure Affects all Claims
- ## 2019 Examination of Applications Having Issues Under 37 CFR 1.56(c)

2020 Examination of Applications Having Issues of Fraud, * * * Inequitable Conduct and/or Violation of the Duty of Disclosure

- 2020.01 Typical Issues Present in Original Applications
- 2020.02 Typical Issues Present in Reissue Applications
- 2020.03 Identification of Issues and Referral to Office of Assistant Commissioner for Patents

2021 Initial Review and Treatment by Office of Assistant Commissioner for Patents

- 2021.01 Deferral of Decisions on Issues of Conduct Presented in Protests
- 2021.02 Suspension of Action Because of Litigation
- 2021.03 Returning Application to Group Director for Examination
- 2021.04 Requirements for Information

2022 Examination by the Examiner After Return From the Office of the Assistant Commissioner

- 2022.01 Examiner Notation and Deferral of Additional Issues of Fraud, Inequitable Conduct, or Violation of the Duty of Disclosure
- 2022.02 Claims and Application not Allowable Until Fraud, Inequitable Conduct, or Duty of Disclosure Issues Resolved

2022.03 Close of Prosecution and Forwarding of Applications to Office of Assistant Commissioner for Patents After All Other Matters Are Resolved or Application is Otherwise Ready for Consideration by Board of Patent Appeals and Interferences

2022.04 Application Abandoned During Prosecution Before Examiner

2022.05 Determination of "Error Without any Deceptive Intention"

2029 Examination as to Issues Relating to 37 CFR 1.56(c)

2030 Examination as to Issues of "Fraud" or Violation of the Duty of Disclosure

2031 Requirement for Information

- 2031.01 Form of Response
- 2031.02 Time for Response

2032 Order to Show Cause

- 2032.01 Time for Response
- 2032.02 Effect of Failure to Respond

2033 Rejection Under 37 CFR 1.56(d)

2040 Striking and Rejecting Applications Under 37 CFR 1.56(c) and 1.56(d), Respectively

- 2040.01 Standard of Proof
- 2040.02 Collateral Estoppel

2048 Decision Striking Application Under 37 CFR 1.56(c) or Refusing Action Under 37 CFR 1.56(c)

2050 Decision Rejecting Application Under 37 CFR 1.56(d) or Refusing Action Under 37 CFR 1.56(d)

2051 Action After Resolution of Issues Under 37 CFR 1.56 (c) or (d) in Favor of Patentability

2052 Action After Application is Stricken or Rejected; or Abandoned With Issues of Fraud, Inequitable Conduct or Violation of the Duty of Disclosure Unresolved

2053 Published Office Decisions Relating to 37 CFR 1.56

This Chapter deals with the duties owed toward the Patent and Trademark Office by the inventor and every other individual who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor or the inventor's assignee. These duties, of candor and good faith and disclosure have been codified in 37 CFR 1.56, as promulgated pursuant to carrying out the duties of the Commissioner under Sections 6, 131 and 132 of Title 35 of the United States Code.

Also covered is subsection (c) of § 1.56 involving possible striking of an application where signed or sworn to in blank, or without actual review by the applicant, or where altered or partly filled in after being signed or sworn to.

This Chapter treats rejecting by the Office under § 1.56(d) of an application where it is established that a "fraud" has been practiced or attempted to be practiced on the Office or where there has been any "violation of the duty of disclosure" through bad faith or gross negligence. The standard of proof required to establish "fraud", "inequitable conduct" or "violation of duty of disclosure" is treated in this chapter. In addition, some aids to attorneys and agents for helping ensure compliance with the duty of disclosure are presented herein.